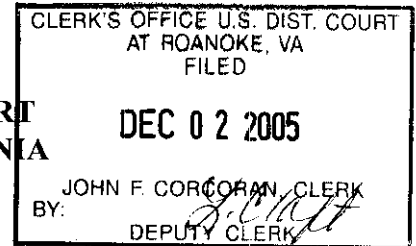


IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION



EDWARD JAMES EGAN, SR.,)	
Plaintiff,)	Civil Action No. 7:05CV00280
)	
v.)	<u>ORDER</u>
)	
GERALD R. HOLT, <u>et al.</u> ,)	By: Glen E. Conrad
Defendants.)	United States District Judge

Edward James Egan, Sr., an inmate formerly held at the Roanoke City Jail, filed this civil rights action under 42 U.S.C. § 1983. On July 11, 2005, the defendants moved to dismiss the action for failure to exhaust administrative remedies. By order entered September 14, 2005, the court referred the defendants' motion to United States Magistrate Judge Pamela M. Sargent, pursuant to 28 U.S.C. § 636(b)(1)(B). The Magistrate Judge held an evidentiary hearing on October 6, 2005. The Magistrate Judge has now submitted a report in which she recommends that the court deny the defendants' motion to dismiss. Both sides were advised that the failure to file written objections to the report within 10 days would be deemed to constitute a waiver of the right to contest the Magistrate Judge's findings and conclusions. Neither side has filed any objections to the Report and Recommendation.

For reasons stated in the Magistrate Judge's Report and Recommendation, and in the absence of any objections thereto, it is now

ORDERED

that the Report and Recommendation shall be and hereby is **ADOPTED** in its entirety. See Wells v. Shriners Hospital, 109 F.3d 198, 199 (4th Cir. 1997) (failure to file written objections to report and recommendation constitutes a waiver of the right to further contest those issues).

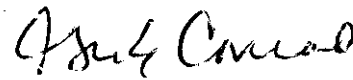
Accordingly, it is further

ORDERED

that the defendants' motion to dismiss shall be and hereby is **DENIED**. The parties shall have thirty (30) days to file motions for summary judgment on the merits of the plaintiff's claims.

The Clerk is directed to send a certified copy of this order to the plaintiff and to all counsel of record.

ENTER: This 2nd day of December, 2005.



United States District Judge